

WILLIAM FRANKLIN, Esquire, GOVERNOR. 343

## At a GENERAL ASSEMBLY held at

Burlington from the Twentieth Day of November to the Twenty-first Day of December 1771, in the Twelfth Year of the Reign of King George the Third, the following Laws were passed.

SESSION THE FOURTH.

C H A P. DXXXIX.

*An ACT to continue and amend an Act, entitled, An Act for better settling and regulating the Militia of this Colony of New-Jersey; for the repelling Invasions, and suppressing Insurrections and Rebellions.\**

Passed Dec. 21, 1771.

WHEREAS the Act passed in the Nineteenth Year of the Reign Preamble. of our late Sovereign Lord King George the Second, entitled, *An Act for better settling and regulating the Militia of this Colony of New-Jersey; for the repelling Invasions, and suppressing Insurrections and Rebellions,* will expire at the End of this Session of Assembly;

Sect. 1. BE IT ENACTED by the Governor, Council and General Assembly, and it is hereby Enacted by the Authority of the same, That the said Act, entitled, *An Act for better settling and regulating the Militia of this Colony of New-Jersey; for the repelling Invasions, and suppressing Insurrections and Rebellions,\** shall be, and hereby is continued, and every Article and Clause therein contained shall be and remain in full Force, from the Publication hereof, to the first Day of May which will be in the Year of our Lord One Thousand Seven Hundred and Seventy-seven, and from thence to the End of the next Session of the General Assembly of this Colony, and no longer.

2. AND WHEREAS it has been a Custom of late, in some of the Counties of this Colony, to choose the Militia Officers Constables; for preventing the same for the Future, BE IT ENACTED by the Authority aforesaid, That, during the Continuance of this Act, it shall not be lawful for any Court of General Quarter-Sessions of the Peace, or for any of the Inhabitants of this Colony, at their annual Town-meetings, to appoint or choose any commissioned Officer, while in Commission, to be a Constable; any Law, Usage or Custom to the contrary notwithstanding.

C H A P. DXL.

Commissioned Officers  
not to be chosen  
Constables.

*An ACT for the Preservation of Deer and other Game, and to prevent trespassing with Guns.*

Passed Dec. 21, 1771.

WHEREAS the Laws heretofore passed in this Colony for the Preamble. Preservation of Deer and other Game, and to prevent trespass-

\* Chap. CC.

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ing with Guns, Traps and Dogs, have, by Experience, been found insufficient to answer the salutary Purposes thereby intended ; Therefore,

No Person to  
carry a Gun  
on Lands not  
his own, ex-  
cept, &c.

Sect. 1. BE IT ENACTED by the Governor, Council and General Assembly of this Colony of New-Jersey, and it is hereby Enacted by the Authority of the same, That if any Person or Persons shall presume, at any Time after the Publication hereof, to carry any Gun on any Lands not his own, and for which the Owner pays Taxes, or is in his lawful Possession, unless he hath License or Permission in Writing from the Owner or Owners or legal Possessor, every such Person so offending, and convicted thereof, either upon the View of any Justice of the Peace within this Colony, or by the Oath or Affirmation of one or more Witnesses, before any Justice of the Peace of either of the Counties, Cities or Towns-corporate of this Colony, in which the Offender or Offenders may be taken or reside, he, she or they, shall, for every such Offence, forfeit and pay to the Owner of the Soil, or his Tenant in Possession, the Sum of *Forty Shillings*, with Costs of Suit; which Forfeiture shall and may be sued for and recovered by the Owner of the Soil, or Tenant in Possession, before any Justice of the Peace in this Colony, for the Use of such Owner or Tenant in Possession.

### Penalty.

No Person to  
drive Deer or  
other Game,  
except, &c.

2. AND BE IT ENACTED by the Authority aforesaid, That if any Person shall presume, at any Time after the Publication of this Act, to hunt or watch for Deer with a Gun, or set in any Dog or Dogs to drive Deer, or any other Game, on any Lands not his own, and for which the Owner or Possessor pays Taxes, or is in his lawful Possession, unless he hath License or Permission in Writing from such Owner or Owners or legal Possessor ; every such Person so offending, and being convicted thereof in Manner aforesaid, shall, for every such Offence, forfeit and pay to the Owner of the Soil, or Tenant in Possession, the Sum of *Forty Shillings*, with Costs of Suit ; provided, that nothing herein contained shall be construed to extend to prevent any Person carrying a Gun upon the King's Highway in this Colony.

### Penalty.

### Penalty on Non-Resi- dents.

3. AND BE IT FURTHER ENACTED by the Authority aforesaid, That if the Person or Persons offending against this Act be Non-Residents of this Colony, he or they shall forfeit and pay for every such Offence *Five Pounds*, and shall forfeit his or their Gun or Guns to any Person or Persons who shall inform and prosecute the same to Effect, before any Justice of the Peace in any County of this Colony, wherein the Offender or Offenders may be taken or apprehended.

Penalty for  
killing, &c.  
Deer out of  
Season.

4. AND BE IT ENACTED by the Authority aforesaid, That if any Person or Persons shall kill, destroy, hunt or take any Doe, Buck, Fawn, or any Sort of Deer whatsoever, at any other Time or Season, except only between the first Day of *September* and the first Day of *January* yearly and every Year, he, she or they so offending, shall forfeit and pay the Sum of *Forty Shillings* for each and every Offence ; to be sued for, recovered and applied as hereafter is directed.

What shall  
be Evidence  
of such Kill-  
ing, &c.

5. AND, for the better and more effectual convicting of Offenders against this Act, BE IT ENACTED by the Authority aforesaid, That any and every Person or Persons in whose Custody shall be found, or who shall

shall expose to Sale, any green Deerskins, or fresh Venison killed at any Time after the first Day of *January*, and before the first Day of *September* aforesaid, and shall be thereof convicted by the Oath or Affirmation of one or more credible Witnesses, shall be deemed guilty of offending against this Act, and be subjected to the Penalties of killing Deer out of Season.

6. AND WHEREAS great Numbers of idle and disorderly Persons make a Practice of hunting on the waste and unimproved Lands in this Colony, whereby their Families are neglected, and the Publick is prejudiced by the Loss of their Labour, BE IT THEREFORE ENACTED by the Authority aforesaid, That, from and after the first Day of *January* next, no Person or Persons whatsoever (except such Persons as are by the Laws of this Colony qualified to vote for Representatives in General Assembly, in Right of their Freeholds, and their Sons being of the Age of eighteen Years or upwards, and living with their Parent or Parents, or being Freeholders) shall, on any Pretence whatever, hunt on the waste and unimproved Lands in this Colony ; and if any Person or Persons, not qualified as aforesaid, shall presume to hunt as aforesaid, he or they so offending shall forfeit and pay, for every such Offence; the Sum of *Twenty Shillings* ; to be recovered by Action of Debt, with Costs, by any Person who shall sue for the same ; to be applied one Half to the Prosecutor, and the other Half to the Use of the Poor of the Township or Precinct where the Fact was committed.

Who may hunt on unimproved Lands.

Penalty on Offenders.

7. AND BE IT ENACTED by the Authority aforesaid, That if any Person or Persons within this Colony shall set any Trap or other Device whatsoever, larger than what is usually and commonly set for Foxes and Muskrats, such Person, setting such Trap or other Device, shall pay the Sum of *Five Pounds*, and forfeit the Trap or other Device, shall suffer three Months Imprisonment, and shall also be liable to make good all Damages any Person shall sustain by setting such Trap or other Device, and the Owner of such Trap or other Device, or Person to whom it was lent, shall be esteemed the Setter thereof, unless it shall be proved, on Oath or Affirmation, what other Person set the same, or that such Trap or other Device was lost by said Owner or Person to whom it was lent, and absolutely out of his Power ; and if the Setter of the Trap or other Device be a Slave, and it be his own voluntary Act, he shall (unless the Master or Mistress shall pay the Fine) in Lieu of such Fine, be publickly whipped with thirty Lashes, and committed till the Costs are paid ; and that the said Trap or other Device shall be broken and destroyed in the View and Presence of the Justice of the Peace before whom they are brought : And if any Person or Persons shall have Possession of, or there shall be found in his or their House, any Trap or Traps, Device or Devices whatsoever, for taking of Deer, such Person or Persons shall be subjected to the same Penalty as if he or they were convicted of setting such Trap or Traps, or other Device.

Penalty on a Slave setting such Trap, &c.

Penalty on keeping such Trap, &c.

8. AND, for encouraging the Destruction of such Traps and Devices, BE IT ENACTED by the Authority aforesaid, That if any Person shall seize any Trap or other Device for the taking Deer, and shall carry such Trap or other Device to any Magistrate of the County where such Trap or Device was seized, such Person shall be entitled to

Reward for seizing a Trap, &c.

an Order from the said Magistrate to the Collector of such County, to pay him the Sum of *Ten Shillings*, out of any Money in his Hands raised for the Use of the County; which Sums shall be allowed to such Collector on the Settlement of his Accounts.

*Penalty on a Smith making or mending such Trap, &c.*

9. AND BE IT FURTHER ENACTED by the Authority aforesaid, That every Smith or other Artificer, who shall hereafter make or mend any such Trap or other Device aforesaid, he shall forfeit and pay the Sum of *Forty Shillings*; and the Person carrying such Trap or other Device to the Artificer aforesaid, shall forfeit and pay the Sum of *Twenty Shillings*. And every Person who shall bring into this Colony any such Trap or Device as aforesaid shall forfeit and pay the Sum of *Forty Shillings*. And if the Person who shall carry the same to the Smith or Artificer shall be so poor as that he shall not be able to pay the Forfeiture aforesaid, he shall be committed to the common Gaol, until he shall prove who is Owner of such Trap or Device, or who delivered the same to him; and in such Case the Forfeiture aforesaid shall be levied on the Goods, or in Failure of Goods, on the Body of the Owner of such Trap or Device, or the Person who delivered the same to the Pauper, and the Trap or Device shall be forfeited and destroyed.

*Penalty for setting loaded Guns.*

10. AND WHEREAS a most dangerous Method of setting Guns has too much prevailed in this Province, BE IT ENACTED by the Authority aforesaid, That if any Person or Persons within this Colony shall presume to set any loaded Gun in such Manner as that the same shall be intended to go off or discharge itself, or be discharged by any String, Rope, or other Contrivance, such Person or Persons shall forfeit and pay the Sum of *Six Pounds*; and on Non-payment thereof shall be committed to the common Gaol of the County for six Months.

*Application of Penalties.*

11. AND BE IT FURTHER ENACTED by the Authority aforesaid, That the Fines and Forfeitures in this Act expressed, and not particularly appropriated, shall be paid, one Half to the Prosecutor, and the other Half to and for the Use of the Poor of the Town, Precinct or District, where the Offence is committed; and that the Execution of this Act, and every Part thereof, shall be within the Cognizance and Jurisdiction of any one Magistrate or Justice of the Peace, without any Reference to the Act for Trial of small Causes in this Colony.

*Jurisdiction given to one Magistrate.*

*This Act not to affect Parks.*

12. AND BE IT ENACTED, That nothing in this Law shall be construed to extend to restrain the Owners of Parks, or of tame Deer, from killing, hunting or driving their own Deer.

*Penalty on Magistrate neglecting his Duty.*

13. AND BE IT ALSO ENACTED by the Authority aforesaid, That if any Justice of the Peace or other Magistrate, within this Province, shall have Information of any Persons offending against this Act, in killing Deer out of Season, setting and making Traps, Non-Residents killing Deer, and Persons setting of Guns, and shall not prosecute the same to Effect within two Months after such Information, he shall forfeit and pay the Sum or Sums to which the Offender against this Act would have been liable.

14. AND

14. AND BE IT ENACTED by the Authority aforesaid, That the Justices at every Quarter-Sessions of the Peace shall cause this Act to be publickly read; and give in Charge to the Grand-Jury to particularly inquire and present all Persons for killing Deer out of Season, setting or making Traps, and all Non-Residents killing, destroying, hunting and taking any Sort of Deer, and all Persons setting of Guns; and, upon Conviction for either of the said Offences, the said Justices shall set and impose the Fines and Penalties herein before-mentioned, with Costs of Suit.

This Act to be published and executed.

15. AND BE IT ENACTED by the Authority aforesaid, That if any Person or Persons whatsoever, whether the Accused or Accuser, Plaintiff or Defendant, shall think themselves aggrieved by any of the Judgments given by the said Justices or other Magistrates, for any Suit commenced by Virtue of this Act; then it shall and may be lawful for such Person or Persons to appeal, on giving sufficient Security for the Forfeitures and Costs, to the next Court of General Quarter-Sessions, held for such County where such Judgment shall be given; which Court is hereby empowered to hear and determine all and every such Appeal or Appeals.

Appeal given to next Sessions.

16. AND BE IT ENACTED by the Authority aforesaid, That if any Person or Persons, within this Colony, shall, after the Publication of this Act, watch with a Gun, on any uninclosed Land within two Hundred Yards of any Road or Path, in the Night Time, whether the said Road is laid out by Law or not, or shall stand or station him or themselves upon or within two Hundred Yards of any Road as aforesaid, for shooting at Deer driven by Dogs, he or they so offending, shall, on Conviction, forfeit and pay the Sum of *Five Pounds* for every such Offence; to be recovered by Action of Debt, or Presentment of the Grand-Jury as aforesaid, and pay all Damages.

Penalty for watching in the Night near a Road.

17. PROVIDED ALWAYS, That the sixth Section of this Act shall not be construed to affect any Native *Indian*; and that nothing in this Act shall be construed to prevent the Inhabitants of *Essex*, *Bergen*, *Morris* and *Suffex*, from making, having in their Houses, or setting Traps of five Pounds Weight or more for Bears, Wolves, Foxes, or any other wild Beasts, Deer only excepted.

Not to affect Indians, nor Essex, Bergen, Morris or Suffex.

18. AND BE IT FURTHER ENACTED by the Authority aforesaid, That all former Laws made in this Colony for the Preservation of Deer and other Game, and to prevent trespassing with Guns, and regulating the Size of Traps, shall be, and they are hereby repealed.

Repeal of Former Laws.

C H A P. DXLI.

*An ACT declaring the River Delaware a common Highway, and for improving the Navigation in the said River.*

Passed Dec. 21, 1771.

WHEREAS the improving the Navigation in Rivers is of great Importance to Trade and Commerce; AND WHEREAS the River *Delaware*

*Delaware* may be rendered much more navigable than it now is ; AND WHEREAS many Persons desirous to promote the publick Welfare have subscribed large Sums of Money for the Purpose aforesaid ; and it is represented that others will subscribe considerable Sums, if Commissioners are appointed by Law to receive the Subscriptions, and apply the same ; Therefore,

*Delaware a publick Highway.*

**Sect. 1. BE IT ENACTED** by the Governor, Council and General Assembly, and it is hereby Enacted by Authority of the same, That the River *Delaware* shall be, and it is hereby declared to be a common Highway, for the Purposes of Navigation up and down the same.

Commissioners appointed.

**2. AND BE IT FURTHER ENACTED** by the Authority aforesaid, That *Joseph Galloway, Joseph Fox, Michael Hillegas, Abel James, Samuel Rhoads, James Allen, Peter Knight, Esquires, Daniel Williams, Henry Drinker, Clement Biddle, Jeremiah Warder the Younger, Jacob Bright, John Baldwin, Richard Wells, Gentlemen, Thomas Yardley, Jacob Orndt, Peter Kechline, Henry Kooken, Esquires, William Ledley, Nicholas Depui, Son of Samuel, Jacob Stroud and John Arbo, Gentlemen, the Honourable, John Stevens, James Parker and Daniel Coxe, Esquires, Samuel Meredith and Robert Field, Esquires, Doctor William Bryant, Abraham Hunt, Timothy Smith, Thomas Lowry, Asbur Mott, John Emley of Kingwood, Andrew Melick, Robert Hoops and Matthew Lowry, Gentlemen,* be, and they are hereby appointed and constituted Commissioners for improving the Navigation in the said River *Delaware* ; who, or any twelve of them, the Survivors, or any twelve of them, shall have full Power and Authority, by Virtue hereof, to collect, recover and receive from any Person or Persons whatsoever, all such Sums of Money, which have been, or shall be given or subscribed for rendering the said River more navigable ; and so much of the said Monies as may be necessary for that Purpose, to lay out and apply for and towards improving the Navigation in the said River *Delaware*, from the lower Part of the Falls near *Trenton*, to the River *Lehigh* at *Easton* ; and the Residue thereof to lay out and apply for and towards improving the Navigation in that Part of the said River above the said River *Lehigh*. PROVIDED ALWAYS, That such Sums of Money as have been or shall be given or subscribed for the improving the Navigation of the said River, above the *Lehigh* aforesaid, separately, shall be laid out and applied for and towards that Purpose, and no other.

To collect Subscriptions

and apply them.

To clear, straighten, &c.

**3. AND BE IT FURTHER ENACTED** by the Authority aforesaid, That the said Commissioners, or any twelve of them, their Survivors, or any twelve of them, shall have full Power and Authority, by themselves, their Agents, Servants and Workmen, to clear, scour, open, enlarge, straighten or deepen, the said River where-ever it shall to them appear useful for improving the Channels ; and also to remove any Obstructions whatsoever, either natural or artificial, which may or can in any Manner hinder or impede the Navigation in the said River ; and to make and set up in the said River any Dams, Pens for Water Locks, or any other Works whatsoever, and the same to alter or repair as they shall think fit ; and also to appoint, set out, and make near the said River, Paths or Ways, which shall be free and open for all Persons having Occasion to use the same for towing, hauling or drawing any Vessels, Boats, small Craft and

Rafts

Rafts, of any Kind whatsoever; and from Time to Time to do and execute every other Matter or Thing necessary or convenient for improving the Navigation in the said River. PROVIDED ALWAYS, That no Dam, Pen, Lock or other Work, made or set up by the said Commissioners, shall be appropriated to the private Use or Benefit of any Person or Persons whatsoever, contrary to the true Intent and Meaning of this Act.

4. AND BE IT FURTHER ENACTED by the Authority aforesaid, That no Person or Persons whatsoever shall presume to divert, lead or draw at any Time or Times, by any Race or other Device, any Water of the said River out of or from the natural Course or Channel, for the Use of any Mill or Waterwork.

Watercourse  
not to be di-  
verted.

5. AND BE IT FURTHER ENACTED by the Authority aforesaid, That if any Person or Persons shall presume to oppose or hinder the said Commissioners, or any of them, their Agents, Servants and Workmen, or any of them, from doing any Act which they are hereby authorized and empowered to do, or shall make, erect, set up, repair or maintain, or shall be aiding, assisting or abetting in making, erecting, setting up, repairing or maintaining, any Dam or Obstruction which may or can in any Manner hinder or impede the Navigation in the said River; or shall remove, destroy, throw down, alter, injure or impair, any Dam, Pen, Lock or other Work, made or set up by the said Commissioners, or by Order of them, or any twelve of them, their Survivors, or any twelve of them; every Person so offending, being legally convicted thereof by Verdict of a Jury, or by his own Confession, before the Justices of the Peace in their Court of General Quarter-Sessions, shall forfeit and pay *Fifty Pounds* Proclamation Money of this Colony, for every such Offence, or shall suffer Imprisonment for twelve Months without Bail or Mainprize; one Moiety of which Forfeiture shall be paid to the Informer, and the other Moiety to the Commissioners herein appointed, or the Survivors of them as aforesaid, to be applied for and towards improving the Navigation in the said River.

Penalty on  
hindering the  
Commission-  
ers, &c. or  
obstructing  
the Navigati-  
on.

Application.

6. AND WHEREAS Doubts may arise in what Counties Offences committed in the said River *Delaware* against this Act ought to be tried; for removing thereof, BE IT ENACTED by the Authority aforesaid, That every Offence committed in or on the said River, against this Act, shall be laid to be committed, and may be tried and determined as aforesaid, in any of the Counties within this Colony opposite to or joining on that Part of the said River in which such Offence shall be committed.

Offences  
where triable.

7. PROVIDED ALWAYS, AND BE IT FURTHER ENACTED by the Authority aforesaid, That Nothing herein contained shall give any Power or Authority to the Commissioners herein appointed, or any of them, to remove, throw down, lower, impair, or in any Manner to alter a Mill-Dam erected by *Adam Hoops*, Esquire, late deceased, in the said River *Delaware*, between his Plantation and an Island in the said River nearly opposite to *Trenton*, or any Mill-Dam erected by any other Person or Persons in the said River, before the Passing of this Act; nor to obstruct, or in any Manner to hinder the Heirs or Executors

Not to injure  
Mill-Dams  
already erect-  
ed.

of the said *Adam Hoops*, or such other Person or Persons, his or their Heirs and Assigns, from maintaining, raising or repairing, the said Dams respectively, or from taking Water out of the said River, for the Use of the said Mills and Waterworks, erected as aforesaid, and none other.

Commissioners to keep Minutes and report.

8. AND BE IT FURTHER ENACTED by the Authority aforesaid, That the said Commissioners shall keep Minutes of their Proceedings, in Pursuance of the Power hereby given to them, fairly entered in a Book; and shall once in every Year make Report of their Transactions in improving the Navigation in the said River to the Council and Assembly of this Colony for the Time being, and shall lay before them a just and faithful Account of all Sums of Money by them received for the aforesaid Purposes, and in what Manner they shall be expended, that the same may be adjusted and settled.

C H A P. D<sup>XLI</sup>II.

*An ACT for the more effectual maintaining, and keeping above the Flow of the Tide, that Part of the Road or Causeway between the Toll-Bridge over Newton Creek and the fast Land of Keziah Tonkin.\**

Passed Dec. 21. 1771.

Preamble.

W<sup>H</sup>E<sup>R</sup>E<sup>A</sup>S Thomas Attmore, Isaac Burrough, Benjamin Thackray, Jacob Stokes, Hannah Cooper, Keziah Tonkin, Elizabeth Thackray and Job Haines, Owners and Proprietors of the Meadows lying on the easterly Side of Newton Creek, in the County of Gloucester, have, by their Petition, set forth, That they have suffered, and are daily exposed to very considerable Damage by Reason of the Causeway and Road between the Toll-Bridge, called *William Gerrard's*, and the fast Land of *Keziah Tonkin*, not being raised above the Flowing of the Tides;

Possessors of the Toll-Bridge neglecting three Months.

*Sect. 1. BE IT THEREFORE ENACTED by the Governor, Council and General Assembly, That if the Owner or Owners, Possessor or Possessors, of the Toll-Bridge erected over Newton Creek, shall neglect or refuse, for three Months after Publication hereof, to repair and raise, above the Flowing of the Tides, such Part of the Causeway and Road, leading from the Town of Gloucester to the Coopers Ferries, as lays on the East Side of Newton Creek aforesaid, from the End of said Toll-Bridge to the fast Land of Keziah Tonkin; then, and in such Case, it shall and may be lawful for the Managers, or the Survivors of them already appointed, or that shall be hereafter appointed, in Pursuance of an Act passed in the third Year of His present Majesty's Reign, entitled, *An Act to enable the Owners and Possessors of the Meadows lying on a Branch of Newton Creek, in the County of Gloucester, commonly called the Back Creek, to erect and maintain a Bank, Dam, and other Waterworks across the said Creek, in order to prevent the Tide from overflowing the same, and to keep the former Watercourse of said Creek open and clear;† to repair, amend and raise the said Causeway and Road, from the Bridge aforesaid,**

Managers of Back Creek Meadows to repair and raise the Causeway.

\* This Act, though strictly private, being of a very publick Import, is admitted in this Collection.  
† Chap. CCCLV.